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REMARKS

Claims 1-4 and 9 were rejected under 35 USC 112, second paragraph. Claim 1 is amended to remove the antecedence problem and to thereby overcome the rejection. The amendment to claim 1 also overcomes the rejection of claim 4 (claims 2 and 3 are canceled).

As for the rejection of claim 9, applicants respectfully traverse. Claim 9 depends on claim 5, and claim 5 specifies a method that is executed in an environment that includes various physical elements. Those are "terminals," a "node," an "apparatus," and a "transmission medium." Claim 9 limits claim 5 by specifying that the defined method is executed in the "apparatus," in contrast of it being executed elsewhere, such as in the "module," for example. It is respectfully submitted that claim 9 is NOT vague or indefinite.

Claims 1-4 were rejected under 35 USC 102 as being anticipated by Dail, et al, US Patent 5,570,355. Applicants respectfully traverse. In connection with the environment in which the method of claim 1 is executed, the claim specifies enhanced signaling channels that are created from communication channels. These enhanced signaling channels are over and above other out-of-band signaling channels. In support of the rejection the Examiner points to col. 3, lines 30-34 and 52-64. These passages teach that for synchronous transfer mode (STM) traffic one fixed time slot is used for shared, i.e., contention-based, signaling. There is no indication that this channel is ever used for anything other than signaling. For asynchronous transfer mode (ATM) traffic, according to the reference, "at least one contention ATM time slot is always made available for signaling." That is not a teaching of what claim 1 specifies, which is that the "at least one of the communication channels is divided into a plurality of enhanced signaling channels." It is noted that the unamended claim 1 similarly specified a communication channel that comprises a group of the enhanced signaling channels. Since Dail et al do not practice a method in such an environment there is no anticipation. Since this limitation makes claim 1 not anticipated by the reference, applicants wish to point out that the amendment to claim 1 is NOT made in an effort to overcome the reference. Rather, claim 1 is amended to make it shorter, clearer, and more focused.

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Moreover amended claim 1 specifies a congestion control that, *inter alia*, drops an "an established call from one of said communication channels in order to create conditions that permit setting up said call by said step of setting up." This limitation is imported from the canceled claim 3, but the Examiner rejected claim 3 with the assertion that the above-mentioned limitation is taught by box 2001 in FIG. 2 of the reference. FIG. 2 does not have a box 2001, but FIG. 20 does; so applicants assume that the Examiner meant to refer to FIG. 20.

Applicants respectfully disagree the box 2001 teaches the limitation of claim 1. Actually, the text within the Detailed Description that pertains to box 2001 is found in col. 20, line 51, et seq., and that text is quoted below.

In step 2001 of FIG. 20, the bandwidth controller uses an optimization (e.g., integer programming) process to determine the numbers of guaranteed ATM time slots (g_1, g_2, \dots, g_n) and the numbers of extra ATM time slots (x_1, x_2, \dots, x_n) over "n" frames (periodically) to allocate bandwidth (R_i, R_x) required for the call. If the optimization process in step 2001 determines that there is no set of values for (g_1, g_2, \dots, g_n) that can be assigned to meet the requirement of guaranteed bandwidth allocation R_i , then the call is rejected in step 2003. Otherwise, a decision is made to admit the call with the values of (g_1, g_2, \dots, g_n) and (x_1, x_2, \dots, x_n) as determined by the optimization process of step 2001. The process proceeds to step 2005 and updates the values of $G_{Ai}, X_{Ai}, i=1,2, \dots, n$. Then, in step 2010, the call is admitted, and STM messages and ATM MAP are generated to inform all stations of the new time slot allocations.

The above passage teaches that if capacity is available the call is admitted, and if capacity is not available the call is rejected. There is no teaching, or any suggestion, of dropping existing calls in order to release capacity. Therefore, it is respectfully submitted that amended claim 1 is neither anticipated nor is rendered obvious by Dail et al.

Claims 5-30 were rejected under 35 USC 103 as being unpatentable over Dail et al in view of Born et al, US Patent 6,404,887. Applicants respectfully traverse.

In connection with independent claim 5, applicants first note that, as in connection with claim 1, a congestion control notion like the one defined in the fourth clause following the preamble is not found at all in the Dail et al reference. It is noted that the Examiner has pointed to no congestion control process in the Born et al reference and, therefore, the combination of the two references does not result in any implementation of

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a congestion control process that drops existing calls. Accordingly the combination of the references does not render claim 5 obvious.

Second, applicants note that claim 5 is executed in an environment where there are terminals, an apparatus, and a node therebetween. The first step of the claimed method is one of passing an off-hook condition from the apparatus, via the node, to the apparatus. The Examiner asserts that Born et al teach a "provision of off hook condition, dial tone, dedicating signaling, a dial number," and in support of this assertion the Examiner cited col. 8, lines 31-33, col. 9, lines 5-11, and col. 11, lines 62-68. Applicants respectfully submit, however, that the passages cited by the Examiner may support the Examiner's assertion as to what is generally described, but **do not** support the rejection. Specifically, the passage at col. 8, lines 31-33, teaches that an off hook condition is supplied to a class 5 office, but there is no indication that the off hook indication goes any farther. The passage at col. 9, lines 5-11 adds to this teaching that the class 5 office supplies a dial tone. This suggests that, indeed, the off hook indication does not go beyond the class 5 office. The passage at col. 11, lines 62-28 is part of claim 1, and it teaches two switching systems that are coupled by way of a signaling network, and the signaling network is adapted to allow the two switching systems to communicate control messages to each other. This, however, does not teach the notion of

passing off-hook information to said apparatus [which necessarily must be via the node] over a signaling channel that belongs to a plurality of enhanced signaling channels. (bracketed phrase supplied for clarification)

It is respectfully submitted that Born et al do not teach the passing of the off hook information to any apparatus that follows an intervening node. Applicants note in passing the information passed by the class 5 switch to the signaling network is dialed number information and not off hook information. (The Examiner has not asserted that the switching network corresponds to any particular aspect of the claims.) Further, the information sent to whatever apparatus exists on the far end of the signaling network is not sent over a signaling channel "that belongs to a plurality of enhanced signaling channels." Further still, if the Examiner were to assert a correspondence between the apparatus of claim 5 and some apparatus on the far end of the signaling network, the correspondence would fail per force of each of the following clauses of the claim.

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Therefore, it is again respectfully submitted that claim 5 is not obvious in view of Dail et al and Born et al, taken singly or together.

Independent claim 16 has a corresponding limitation regarding the congestion control process, and also includes a step, subsequent to the dropping of an existing call and thereby recovering a channel, of using the recovered channel to provide the communication channel for the terminal that is seeking service. Since neither of these notions are found in either Dail et al or in Born et al, it is respectfully submitted that independent claim 16 is not obvious in view of the Dail et al and Born et al combination of references.

Given that independent claims 5 and 16 are not obvious in view of the Dail et al and Born et al combination of references, it follows that dependent claims 6-15 and 17-30 are also not obvious in view of the Dail et al and Born et al combination of references.

Claims 31, 33, and 37-38 were rejected under 35 USC 102(e) as being anticipated by Choudhury et al, US Patent 6,731,740. Applicants respectfully traverse. Section 35 USC 102(e) states, in the relevant part:

A person shall be entitled to a patent unless—

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or

(b) ..., or

(d) ..., or

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or

The filing date of the patent application that matured into the 6,731,740 patent is the same as the filing date of the instant patent application. Therefore, neither 35 USC 103e(1) nor 35 USC 102e(2) are applicable.

Claims 32 and 35-36 were rejected under 35 USC 102(a) as being unpatentable over Choudhury et al. The Examiner has not identified any other Choudhury et al

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reference, so it must be assumed that the Examiner is referring to the same US Patent 6,731,740. Respectfully, applicants traverse this rejection.

Since the 6,731,740 patent was not issued or printed before the filing date of the instant application and, therefore, was not patented or described in a printed publication before the invention of the instant claims, it follows that 35 USC 102(a) does not apply.

The Kaplan et al US Patent 6,826,273 was perused but was found to neither describe nor suggest the subject claims.

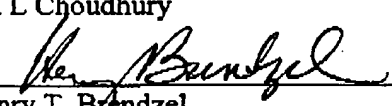
In light of the above amendments and remarks, applicants respectfully submit that all of the Examiner's objection and rejections have been overcome. Reconsideration and allowance are respectfully solicited.

Dated: _____

2/21/06

Respectfully,
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By _____


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